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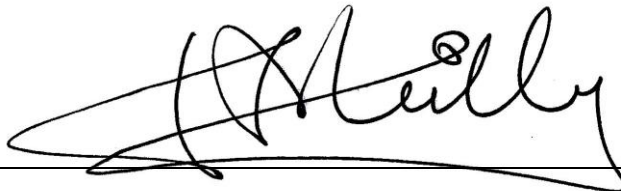
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

UNITED STATES OF AMERICA,	:	
	:	Case No. 4:21-cr-00429-YGR
Plaintiff,	:	
	:	DECLARATION OF FORMER
vs.	:	COUNSEL RE COURT ORDER
	:	FOR RETURN OR DESTRUCTION
RAY J. GARCIA,	:	OF JUROR QUESTIONNAIRES
	:	(Ref: Document 118)
Defendant.	:	

Former Counsel for **DEFENDANT RAY J. GARCIA** hereby submits the attached Declaration re the Court's Order for Return or Destruction of Juror Questionnaires (Document 118).

Date: December 16, 2022

Respectfully submitted,



JAMES T. REILLY, Attorney at Law
California State Bar No. 67254

DECLARATION OF FORMER COUNSEL RE COURT ORDER FOR
RETURN OR DESTRUCTION OF JUROR QUESTIONNAIRES

**Declaration of Former Counsel re Court Order for
Return or Destruction of Juror Questionnaires**

I, James T. Reilly, hereby declare under penalty of perjury that I am an attorney, duly licensed to practice law in the State of California, State Bar No. 67254, and that I was trial counsel for the defendant in this case, Ray Joe Garcia.

On Saturday, December 10, 2022, Attorney Kevin G. Little notified me by email that Mr. Garcia had retained Mr. Little to represent him going forward in this case.

I executed the substitution of counsel form and returned it to Mr. Little on Monday, December 12, 2022. In my response regarding the substitution of counsel, I advised him that the file of the case includes more than 50,000 pages of discovery and 92.2 GB of data in 3377 folders and 30,352 files.

I also advised him that the physical files of the case were contained in nineteen 2.5 inch binders and that there were more than 1000 pages of correspondence, mostly emails, and notes.¹

Finally, I also advised him that I would set up a DropBox folder for sharing of the electronic files. Later that day, I began uploading the electronic files to that shared DropBox folder.

On Tuesday, December 13, 2022, Mr. Little filed the Notice and Consent Order granting substitution of himself as counsel for Mr. Garcia. (Document 116) The court granted the substitution the same day. (Document 117)

¹ While preparing the file materials for delivery to Mr. Little, I determined that the notes and correspondence actually totaled 1649 pages.

1 Also on December 13, 2022, the Court issued an order directing
2 all counsel, including myself, "to destroy the electronic file and
3 shred or return any copies of the questionnaires" and to certify
4 compliance with this order not later than Friday, December 16, 2022.
5 (Document 118)

6 Later that day, Mr. Little advised me by email that he had seen
7 the court's order regarding the jury questionnaires and stated:

8 Since I am now the client's custodian of the file, please
9 leave it to me to comply with that deadline, while also
10 obtaining the information necessary to conduct juror
11 interviews.

12 At 4:03 am on Wednesday, December 14, 2022, I emailed Mr. Little
13 regarding the case files and jury questionnaires. As attachments to
14 that email, I sent him the composite file of jury questionnaires, the
15 separate questionnaire of Juror #40 and the attorney alphabetical
16 list of the juror pool. I also identified for him the jury panel and
17 alternate jurors.

18 Regarding the court's order for return or destruction of the
19 questionnaires, I advised Mr. Little as follows:

20 I will comply with the court order with respect to my
21 electronic and paper copies of these questionnaires and
22 will advised the court that I have there two electronic
23 documents to you. Otherwise, I will leave it to you to
24 address with the court how you will handle these electronic
25 files.

26 That afternoon, I received an email from Roger Wahl, Technical
27 Advisor to Mr. Little, indicating that he had been unable to locate
28 an invitation to the DropBox shared folder. In checking on this, I
discovered that I had inadvertently omitted the "g" in Mr. Little's
email address, which meant that the shared folder invitation had been
sent to the wrong address.

**DECLARATION OF FORMER COUNSEL RE COURT ORDER FOR
RETURN OR DESTRUCTION OF JUROR QUESTIONNAIRES**

1 I immediately corrected this error, had a new DropBox invitation
2 sent, and replied to Mr. Wahl with the correct link. I also advised
3 him that the uploads were still in progress and that the DropBox
4 upload had indicated that one of the files would take 24 hours to
5 upload and another two days. As a result, I told him I would save
6 those files to a thumb drive for delivery with the physical files.

7 Seven minutes later, Mr. Wahl responded, indicating that he now
8 had access to the DropBox shared folder.

9 On Thursday, December 15, I completed preparation of the
10 physical files and advised Mr. Little by email that they filled two
11 Bankers Box file boxes, organized into 12 2.5 inch expando folders.
12 I also advised him that I had not printed all of the discovery, but
13 rather printed only the documents I needed for pretrial preparation
14 and the trial itself. In this email, I provided him with a summary
15 of the contents of the files.

16 I did not, however, include in the boxes of physical files the
17 jury questionnaires, advising him:

18 You did not respond to my comments about the jury
19 questionnaires. Unless I hear otherwise from you by mid-
20 afternoon tomorrow, I will proceed with the court-ordered
deletion of the electronic files and shredding of the paper
versions.

21 I also provided him with several alternatives for exchange of
22 the physical files.

23 At 11:53 pm yesterday, Mr. Little advised me by email that he
24 would like to have the physical files picked up from the Summit
25 Defense office in Oakland. He also stated:

26 Please do not destroy the jury questionnaires. I did
27 respond previously letting you know that I would take
responsibility for that task.

28
**DECLARATION OF FORMER COUNSEL RE COURT ORDER FOR
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1 I responded to this email at 1:53 am today, advising him that I
2 would, following a morning court appearance in San Jose, deliver the
3 two boxes of physical files to the Summit office in Oakland.² I also
4 advised him:

5 As for the jury questionnaires, I have reviewed all of the
6 new documents filed in the case and there is nothing in
7 Document 121 (the stipulation to extend deadlines for post-
8 trial proceedings) which relieves me of the obligation to
9 comply with the court order to destroy them not later than
10 today. I have already provided you with copies of the
11 entire packet of questionnaires. The copies I used for
12 jury selection include some handwritten notes that I added
13 during voir dire. None of them relate in any way to
14 contact information.

15 Nevertheless, I have now scanned those forms and they are
16 attached in two pdf documents:

17 "Summit Garcia Questionnaires Panel" -- it contains the
18 forms for the 12 individuals ultimately selected as trial
19 jurors.

20 "Summit Garcia Questionnaires Alternates & Correspondence"
21 -- it contains the forms for the 4 alternates and the email
22 correspondence I had with the US attorneys about jury
23 selection. These emails are included in the files of
24 "notes & correspondence" which I have uploaded to the
25 DropBox folder, but I added them here for ease of
26 reference.

27 This means that you now have copies of all documents
28 regarding the jurors that I have in my possession. Unless
I am otherwise advised that the court's destruction order
has been revoked or stayed, I will comply with that order
later today. As you probably noticed, the US Attorney has
already filed a certification of compliance with that order
(Document 120).

29 ² Virtually all of the electronic documents have now been
30 uploaded to the DropBox shared folder and I will continue uploading
31 the remaining documents today. All of the documents pertinent to the
32 trial of this case have already been uploaded to the shared folder.

1 Today, December 16, 2022, Mr. Little filed his "Response to and
2 Request for Partial Relief from Court's December 13, 2022, Order re:
3 Return or Destruction of Jury Questionnaires". (Document 123) He
4 notified me of this filing via an email sent at 12:25 pm today. As
5 of my preparation of this declaration, no order has as yet been filed
6 with respect to this request.

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8 Date: December 16, 2022

Respectfully submitted,

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12 JAMES T. REILLY, Attorney at Law
13 Counsel for Defendant RAY J. GARCIA
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